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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO.       |
|---|-------------|----------------------|-----------------------------|------------------------|
| 09/836,096  | 04/17/2001  | Philippe Gatepin     | PHFR 000041                 | 7718                   |
| 24737 7590 07/10/2008<br>PHILIPS INTELLECTUAL PROPERTY & STANDARDS<br>P.O. BOX 3001<br>BRIARCLIFF MANOR, NY 10510 |             |                      | EXAMINER<br>CZEKAJ, DAVID,J |                        |
|   |             |                      | ART UNIT<br>2621            | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>07/10/2008     | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/836,096

**Applicant(s)**

GATEPIN, PHILIPPE

**Examiner**

DAVID CZEKAJ

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Decision by the BPAI***

The previous rejections of claims 2-7 have been reversed by the BPAI. Upon further consideration, a new ground of rejection is made as set forth below.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6-7 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter (Please see the MPEP 2106.01). The computer program product recited in claims 6 and 7 are not embodied within a computer readable medium. However, when functional descriptive material (such as a computer program product) is recorded on some computer readable medium, it becomes structurally and functionally interrelated to the computer and will be considered statutory. Further, as seen on page 6, lines 23-29 of the specification, the computer program product can be made available by a service provider via a communication network, indicating a carrier signal which is directed towards non-statutory subject matter.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. In the claims, the phrase "a function of" was removed by amendment from the originally recited phrase "of a function of an average quantizing scale". The specification specifically states that this feature is included in the computation of the weighting factor. As a result of the removal of this phrase from the claim, it is not clear what subject matter the applicant regards as the invention.

Claim 2, recites the limitation "transcoding channel video" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 4, recites the limitation "transcoding channel video" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 5, recites the limitation "transcoding channel video" in lines 12-13. There is insufficient antecedent basis for this limitation in the claim.

Claim 6, recites the limitation "transcoding channel video" in line 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CZEKAJ whose telephone number is (571)272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Czekaj/  
Art Unit 2621

/Mehrdad Dastouri/  
Supervisory Patent Examiner, Art Unit 2621

/Wanda L Walker/  
Director, Technology Center 2600